



CALIFORNIA PERFORMANCE REVIEW COMMISSION

TOPIC: BOARDS AND COMMISSIONS PROPOSED FOR ELIMINATION

Testimony of Tom Adams
Board President
California League of Conservation Voters

September 27, 2004

The recommendations to eliminate environmental boards and commissions will reduce public participation, reduce public oversight and reduce transparency in government. The agencies proposed for elimination have a record of national and international leadership in protecting the environment and public health.

SUMMARY: The recommendations to eliminate key environmental boards and commissions strike a blow at public participation and open government. Vital decisions about public health and the environment would be moved from open hearings to executive offices. Incredibly, public participation and public oversight were not even listed as criteria used to evaluate boards and commissions. This is inconsistent with the Governor's injunction that the CPR should "put people first." The CPR fails to consider the deterrence that the board and commission process provides against corruption or undue influence. The CPR proposes to eliminate boards that

are national and international leaders, such as the Air Resources Board and the California Energy Commission, without any examination of their tremendous accomplishments. Eliminating boards and commissions will not improve government accountability; it will reduce it. Transferring quasi-legislative authority from a plural body to a single executive will concentrate executive power. The failures and omissions in the CPR presentation on the boards and commissions are so grave that they are fatal to these particular recommendations. Reform should be considered but not at the expense of public participation and public oversight. Reform should be made only after a clear demonstration that it will improve the ability of the environmental agencies to protect the environment and public health.

TESTIMONY: One of the central goals of CPR, as articulated by the Governor, is to “put people first.” Yet the recommendations to eliminate boards and commissions reduce public participation, reduce public oversight and reduce transparency in government. These recommendations consistently strike at the central role of the public to keep an eye on its government and to participate in its decision-making. The public struggled long and hard for these rights, and they are crucial for an effective democracy.

In its historical review, the CPR states that boards and commissions were created to prevent corruption caused by big city bosses. The document

treats corruption as a quaint concern no longer relevant to contemporary circumstances. Yet, the board and commission process still functions to deter corruption and undue influence, and these functions must be preserved.

When decisions are made by executive officers, access to those officers is usually limited to the powerful and the connected. In contrast, any citizen can appear before a board or commission, directly address the decision-maker and watch the decisions being made. The decisions of boards and commissions are subject to open meeting laws that prevent secret deliberations. The decisions are made in the presence of the press, and the role of the press in reporting on these decisions is central to effective public oversight. The public has much greater access to members of boards and commissions than to executive officers.

According to the CPR crucial decisions about the protection of public health and the environment would be removed from open, public processes. Instead decisions of the Air Resources Board, the California Energy Commission, the State Water Board, and the Regional Water Quality Control Boards, the State Lands Commission, the Integrated Waste Management Board, and the Board of Forestry would be made by executives out of public view.

The report lists the criteria used to evaluate the boards and commissions. Incredibly, public participation and public oversight were not even listed as criteria. Not even on the list!! This is a gross omission. It is

particularly astonishing since it is completely inconsistent with the Governor's injunction to put people first.

Furthermore, the stated rationale for the elimination of many of these bodies is dismissive of their achievements. Take the California Air Resources Board as an example. It is probably the preeminent air regulatory body in the United States, if not the world. This was demonstrated once again last Friday by its decision on global warming emissions. Yet here is the total discussion in the CPR of its recommendation to eliminate the ARB:

Eliminate the Board because it is not needed to oversee air quality regulatory functions. The operations should be performed within the Division of Air Quality in the new Department of Environmental Protection. The Secretary of the Department of Environmental Protection can appoint an ad hoc advisory committee should the need arise.

Where is the performance review? There is no analysis of the leadership role the Board has played in vastly improving the State's air quality. There is no analysis showing that an alternative structure would come close to its achievements. To summarily recommend that that the preeminent air regulator in the United States be eliminated is irresponsible.

The same can be said about the recommendations regarding the California Energy Commission, the State Water Board and the Regional Water Boards.

The CPR argues that boards and commissions diminish executive accountability. The opposite is true. Their members are responsible for a limited number of decisions, and they are accountable for them to the person

who appointed them. In contrast, the idea that the Governor should be personally accountable for all these decisions effectively obliterates accountability. Governors are usually elected on a few very large issues, not on the thousands of decisions made by boards and commissions.

Boards and commissions normally contain members from diverse geographic areas, diverse careers and diverse areas of expertise. This diversity enriches the public decision-making process; yet the value of diverse representation in decision-making is not even discussed in the CPR.

Finally, many boards and commissions are delegated broad rule-making authority, so broad that it is properly called quasi-legislative authority. The grant of quasi-legislative authority to a plural body strikes a balance between legislative and executive power. Transferring quasi-legislative authority from a plural body to a single executive significantly increases the concentration of executive power. No analysis of the relative balance of power between the branches of government is discussed in the CPR.

California environmental agencies have established a tremendous record, a record of global leadership. Given the recognized achievements of California environmental agencies, the burden of proof is on those proposing reform to demonstrate that it would improve protection of public health and the environment. The CPR does not come close to making such a demonstration.

For those seeking the maximum efficiency in government, there is little doubt that the board and commission process seems cumbersome and slow. Yet it allows democracy to function, and it gives legitimacy to government decisions.

I wish to close by reminding the Commission of a famous quotation from our own Revolutionary War period:

A Monarchy is like a merchantman. You get on board and ride the winds and tide in safety and elation. But, by and by, you strike a reef and go down. Democracy is like a raft. You never sink; but damn it, your feet are always in the water¹.

Thank you.

¹ Generally attributed to Massachusetts Federalist Fisher Ames.